

REMARKS

This communication is in response to the Office Action dated December 17, 2009 in which claims 1-21 and 23-32 were pending and rejected.

Status of Claims

Claims 1-17 pending, original.

Claims 18-21 pending, added.

Claim 22 canceled.

Claims 23-32 pending, added.

Support for the Added Claims

Claim 18 is supported by the specification at col. 3, line 26-31; col. 4 lines 46-55; col. 5 lines 5-19; col. 8, lines 32-36; col. 17, lines 20-61; col. 31, lines 41-57; col. 5, lines 25-31; col. 31, line 65; col. 32, line 3; and original claims 1 and 4.

Claim 19 is supported by col. 29 line 21; col. 31, line 20 and original claim 1.

Claim 20 is supported by col. 5, lines 47-55; col. 32, lines 22-32 and original claim 2.

Claim 21 is supported by col. 5, lines 19-25; col. 31, lines 58-64; and original claim 3.

Claim 23 is supported by col. 5, lines 31-46; col. 32, lines 4-13; and original claim 5.

Claim 24 is supported by col. 5, line 48; col. 6, lines 4-9; col. 11, lines 14-18; col. 32, lines 31-56; col. 5, lines 25-31; col. 31, line 65; col. 32, line 3; FIG.s 1-3; and original claims 4, 9, and 10.

Claim 25 is supported by col.9, lines 43-59; and col. 13, lines 28-43.

Claim 26 is supported by col. 6, lines 11-36; col. 31, lines 1-39; col. 32, line 57; col. 33, lines 5-13; col. 5, lines 25-31; col. 31, line 65; col. 32, line 3; and original claims 4, 11, and 14.

Claim 27 is supported by col. 32, line 57 to col. 33, line 5.

Claim 28 is supported by col. 6, lines 41-43, col. 33, lines 1-29; and original claim 13.

Claim 29 is supported by col. 6, lines 23-36; col. 31, lines 1-39; col. 33, lines 6-13; and original claim 14.

Claim 30 is supported by col. 6, lines 23-36; col. 31, lines 1-39; col. 33, lines 14-23; and original claim 15.

Claim 31 is supported by col. 6, lines 48-62; col. 31, lines 40-58; col. 5, lines 25-31; col. 31, line 65; col. 32, line 3; and original claims 4 and 16.

Claim 32 is supported by col. 6, lines 62-65; col. 31, lines 40-58; and original claim 17.

Claim Rejections – 35 U.S.C. § 112

Claims 18-21, 23-25, and 29-32 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Also, Claims 18-21, 23-25, and 29-32 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner has indicated the same reasoning for both of the rejections under 35 USC 112. Specifically, the Examiner states that there appears to be no suggestion in the specification for receiving and then transmitting *the same* packet.

Applicant traverses all of the rejections under 35 USC 112. Applicant asserts that the rejections under 35 USC 112 are improper and should be withdrawn. The Examiner is misinterpreting the application. Generally, the present Application describes the reception, storage, retrieval, and transmission of data for a data storage device. Thus, inherently, a *same* packet that is received and stored, would later be retrieved and transmitted for a data storage device to function properly when specific packet is requested to be stored and then later retrieved for a host. Further, the Application specifically describes such process in plenty of detail that is clear, concise, and exact enough to allow a person skilled in the art to make and use the same. Even further, the claims particularly point out and distinctly claim what the Applicant regards as the invention.

Contrary to the Examiner's assertion, the Application describes a system that receives data, stores the data to a memory, retrieves the same data, and transmits the same data as

described in the present claims. See the originally filed Application; page 49, line 27 to page 50, line 5. See also the originally filed Application; page 7, lines 18-26. Specifically, “One such embodiment further includes a parity-generation circuit that generates and appends parity data to the data as they are moved from the off-chip memory to the on-chip memory, wherein the integrity apparatus further checks and strips away the cyclic-redundancy code while moving the frame of data to the off-chip memory.” There are many more examples within the application that *the same* packet would be stored to a memory and retrieved from the memory as claimed.

For at least these reasons, Applicants request withdrawal of all rejections under 35 USC 112.

Claim Rejections – 35 U.S.C. § 102

Claims 26 and 27 were rejected under 35 U.S.C. § 102(e) as being anticipated by LaBerge et al. (U.S. Patent No. 6,185,207 – hereinafter “LaBerge”). Applicant respectfully traverses the rejection based on the currently amended Claim 26 because LaBerge fails to teach or suggest all of the elements of Claim 26.

Specifically, LaBerge fails to disclose, teach, or suggest “retrieving the packet from the memory location; and transmitting the packet and a second data protection code corresponding to the packet onto the serial communications path”, as in Claim 26. Further, LeBarge teaches away from Claim 26 by stating “the receiving computer workstation (42) does not need the CRC value copied into its main memory (36), because it does not have to forward the frame to another LAN”. LaBerge, col. 4, lines 13-16. Thus, LeBarge teaches away from transmitting the packet and a second data protection code corresponding to the packet onto the serial communications path.

Claim 27 is allowable as a dependent claim depending from Claim 26 which is allowable over LaBerge for at least the reasons stated herein. For at least these reasons, Applicant requests withdrawal of the rejections based on 35 USC 102.

Reissue Declaration

Applicant traverses the Examiner's statement that the Supplemental Declaration filed October 21, 2009 is defective. Applicant has complied with all of the requirements for a **supplemental** reissue declaration as specified by 37 CFR 1.175(b) and (c). The Examiner points to 37 CFR 1.175(a), however, that rule only pertains to an original reissue declaration and not a supplemental reissue declaration. **Per rule 37 CFR 1.175(c):**

(c) Having once stated an error upon which the reissue is based, as set forth in paragraph (a)(1), unless all errors previously stated in the oath or declaration are no longer being corrected, a subsequent oath or declaration under paragraph (b) of this section need not specifically identify any other error or errors being corrected.

Thus, **since the original error identified in the Original Reissue Application is still being corrected, the Applicant's Supplemental Declaration need not specifically identify any other error or errors being corrected.** Applicant specifically pointed out this requirement and that such requirement was met in the last response.

Further, the USPTO's form (Form PTO/SB/51S) that is suggested to be used for a supplemental reissue declaration includes ONLY the statement as on the Applicant's submitted Supplemental Declaration. Further, "Form PTO/SB/51S, "Supplemental Declaration For Reissue Patent Application To Correct 'Errors' Statement (37 CFR 1.175)," may be used to prepare a supplemental reissue declaration. Form PTO/SB/51S serves to indicate that every error in the patent that was corrected in the reissue application, but was not covered by a prior reissue oath/declaration submitted in the reissue application, arose without any deceptive intention on the part of the applicant." MPEP 1414.01.

Even further, MPEP 1414.01(I) states: (emphasis NOT added)

"I. WHEN AN ERROR MUST BE STATED IN THE SUPPLEMENTAL OATH/DECLARATION

In the supplemental reissue oath/declaration, there is **no need to state an error** which is relied upon to support the reissue application **if:**

(A) an error to support a reissue has been previously and properly stated in a reissue oath/declaration in the application; and

(B) that error is still being corrected in the reissue application.

If applicant chooses to state any further error at this point (even though such is not needed), the examiner should not review the statement of the further error.

The supplemental reissue oath/declaration must state an error which is relied upon to support the reissue application only where one of the following is true:

- (A) the prior reissue oath/declaration failed to state an error;
- (B) the prior reissue oath/declaration attempted to state an error but did not do so properly; or
- (C) all errors under 35 U.S.C. 251 stated in the prior reissue oath(s)/declaration(s) are no longer being corrected in the reissue application.”

Even further, MPEP 1414.01(III) states “**all oaths or declarations necessary to fulfill the rule requirements in a reissue application are taken together collectively as a single oath or declaration.**” (emphasis added) Thus, the original error stated in Applicant’s Original Reissue Declaration is acceptable for the basis of the reissue because the original error is still being corrected.

Applicant also traverses the Examiner’s rejection of claims 1-21 and 23-32 as being based upon a defective reissue declaration, in paragraph 9 on page 4 of the latest Office Action. Applicant asserts that the Original Reissue Declaration, as well as the Supplemental Reissue Declaration, satisfy all of the requirements of the law. The Examiner fails to specify what the nature of the defect in the Original Reissue Declaration is. The Examiner states that the nature of the defect “is set forth in the discussion above.” However, Applicant is not aware of what the Examiner is referring to as there is no discussion about the Declarations in any other section of the Office Action.

Applicant believes both the Original Reissue Declaration and the Supplemental Reissue Declaration satisfy all of the requirements of the law. Should the Examiner notice a particular deficiency, the Applicant requests a detailed description of the problem so as to provide Applicant with enough information to correct it.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

WESTMAN, CHAMPLIN & KELLY, P.A.

KAC:lah